

# EBSA News

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**U.S. Department of Labor**  
**Employee Benefits Security Administration**  
Washington, D.C.  
Release No.: 03-30

For Immediate Release  
Date: Dec. 31, 2003  
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## **Labor Department Published Final Class Exemption On Settlement of Litigation**

**WASHINGTON** – The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) today published a class exemption to facilitate the settlement of litigation between employee benefit plans and related parties.

The final exemption responds to questions raised by the employee benefits community concerning whether plans that release legal claims against related parties in exchange for cash violate the prohibited transaction provisions of the Employee Retirement Income Security Act (ERISA). The exemption allows plans to release such claims in exchange for cash, securities and the promise of additional benefits. The exemption also allows related parties to pay amounts owed to plans over time.

The exemption requires that the terms of the settlement be approved by a fiduciary not involved in the transaction that was the subject of the litigation. It also requires the settlement to be reasonable, in light of the plan's likelihood of full recovery, the risks and costs of litigation and the value of foregone claims. The proposal should remove any uncertainty and allow plan fiduciaries to properly carry out their responsibilities under ERISA by focusing on the merits of the settlement.

The final exemption is published in the Dec. 31, 2003 *Federal Register*.

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